

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 308

CASE NO. 79-9

MAY 8, 1980

Pursuant to notice, public hearings were held by the District of Columbia Zoning Commission on September 27 and December 3, 1979 to consider proposed amendments to the text of the Zoning Regulations. These amendments propose to create a new commercial district, the height and density standards of which will be between the height and density standards of the existing C-3-A and C-3-B Districts.

The C-3-A District presently permits a maximum height of sixty-five feet and a maximum floor area ratio of 4.0, with non-residential uses limited to 2.5 FAR. The C-3-B District presently permits a maximum height of ninety feet, and a maximum FAR of 6.5. The proposed new C-3-B District as advertised, would have a maximum height of sixty-five feet and a maximum FAR of 4.0.

The proposed text amendment evolved out of consideration by the Zoning Commission of proposed rezoning of the area along Connecticut Avenue between Dupont Circle and Florida Avenue, N.W. In Case No. 76-24, the Commission determined that while "the continuation of the high density and height levels of the present C-3-B zoning is not desirable, the Commission does not believe that any of the existing lower density commercial zones provides adequate commercial density for what is and has been a commercial strip."

The Commission finds that at present there is a large gap in the permitted maximum non-residential FAR between the existing C-3-A (2.5) and the existing C-3-B (6.5) zone districts. The proposed new zone would create a more orderly sequence of height and density standards in the C-3 Districts.

The Commission believes that in addition to the Connecticut Avenue strip between Dupont Circle and Florida Avenue, other locations for mapping could include uptown centers, which are metro station areas identified as having development potential, and major neighborhood business and employment centers. The uptown centers include areas such as the Rhode Island Avenue, Van Ness/UDC, and Minnesota-Benning Metro station areas. The major neighborhood and employment centers could include Pennsylvania and Alabama Avenues, S.E.,

Nannie Helen Burroughs and Minnesota Avenues, N.E., Martin Luther King Jr., Avenue and Good Hope Road, S.E., 18th Street and Rhode Island Avenue, N.E., Alabama Avenue and Good Hope Road, S.E., 50th Street and Nannie Helen Burrough Avenue, N.E., Bladensburg Road and South Dakota Avenue, N.E., and various areas in the Friendship Heights neighborhood.

The Zoning Commission notes that written comments were received from four Advisory Neighborhood Commissions, as follows:

1. Advisory Neighborhood Commission 2B, by statement dated September 28, 1979, reported that it accepted in principle the ideal of creating a new commercial district, the height and bulk standards of which would be between the existing C-3-A and C-3-B Districts. However, the ANC also recommended reducing the proposed height to fifty-five feet and reducing the proposed floor area ratio to 3.0. The ANC believed that its proposed revisions would make the new zone more compatible with residential neighborhoods which adjoin commercial areas and would also reduce the incentive for demolition of existing buildings and removal of existing small business. The ANC also stated that it felt that Planned Unit Development's should not be permitted in the new C-3-B District, because such PUD's would upset the existing balance of bulk, height, scale and architecture.
2. Advisory Neighborhood Commission 2A, by letter dated September 20, 1979, supported fully the changes proposed.
3. Advisory Neighborhood Commission 3C, by letters dated September 2 and November 26, 1979, expressed its concern over the wording of the preamble. Specifically, the ANC feared that references to "uptown centers" and "rapid transit stops" could be interpreted to provide "a basis for a virtually automatic map change." The ANC reported that it did not believe that all uptown centers or rapid transit stops are appropriate candidates for C-3-A or C-3-B zoning.
4. Advisory Neighborhood Commission 3F, by letter dated November 30, 1979, expressed the same concerns as ANC 3C, and opposed the increase in FAR in new commercial zones in uptown centers and rapid transit stops. The ANC did state its willingness to accept 4.0 FAR for mixed-use buildings at transit stops.

As to the issues and concerns raised by the Advisory Neighborhood Commissions, the Commission notes the following responses:

1. The height and bulk standards proposed by ANC 2B are not between the standards of the C-3-A and C-3-B Districts. The proposed height and bulk are less than that permitted as a matter-of-right in the C-3-A District.
2. The question of compatibility with adjoining areas is one which cannot be addressed in the abstract but must be addressed in cases which deal with the mapping of the proposed C-3-B District to a specific location. Such a compatibility assessment occurs in every proposed rezoning case.
3. The question of historic preservation is one which should be dealt with primarily through the process established by the Historic Landmark and Historic District Protection Act of 1978. To the extent that historic preservation concerns are zoning matters, they again would have to be addressed in specific map cases.
4. The PUD process applies to all the existing zone districts, which are mapped throughout the District of Columbia. There is no rationale for excluding this district alone from the applicability of the process. The standards incorporated in the process furthermore serve to provide the protection sought by ANC 2B.
5. The language in the preamble of any zone is provided by the Zoning Commission as guidance for the public in assessing where zone districts are intended to be located. It does not mandate that the zone be mapped in all the circumstances described in the preamble, for it is possible and indeed likely that more than one zone category could fit any given circumstance. Furthermore, the language of the preamble does not provide an automatic basis for rezoning. Any applicant for rezoning must prove the case, regardless of the language of the preamble.

At its public meeting held on January 10, 1980, the Zoning Commission took proposed action to adopt a new C-3-B District. That district was proposed to have a maximum height of sixty-five feet and maximum floor area ratio of 4.5 for apartment house or other residential uses, 4.0 for hotels and other permitted uses and 4.5 for the total uses on the site. For applications proposed under the Planned Unit Development process, the Commission proposed a height limit of ninety feet, and maximum floor area ratios of 5.0 and 4.5 for residential and non-residential uses, respectively.

The proposed amendment was referred to the National Capital Planning Commission for comment and review as required by Section 492(b) (2) of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC reported that the proposed amendments

will not have a negative impact on the functions of the Federal Establishment or other Federal interests in the National Capital Region. A notice of proposed rulemaking was also published in the D.C. Register on February 1, 1980.

After reviewing the report of the National Capital Planning Commission and further discussion at the public meeting held on April 10, 1980, the Commission determined to revise the standards of the proposed new district. The maximum height was proposed to be raised to seventy feet, to reflect more current building design practice in terms of energy efficiency. The proposed FAR limit for residential use was raised by 0.5 to 5.0. Similarly, the maximum total FAR was raised from 4.5 to 5.0. The Commission held the non-residential FAR to 4.0, to provide a greater incentive for the inclusion of some residential use. The PUD limits for FAR were also raised by 0.5 in a similar manner. In addition, the Commission revised some of the area and bulk provisions, to make all of the provisions of the new district consistent with the standards of the old C-3-B District. Previously, some of the standards had been drawn from the old C-3-A District, and some from the old C-3-B.

The revised proposed district was referred to the NCPC on April 10, 1980 for comment and review as required by Section 492(b)(2) of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC reported that the district as then proposed will have a negative impact on the Federal Establishment or other Federal interests in the National Capitol when applied to certain designated historic districts because of the additional 0.5 floor area ratio and additional five feet in maximum building height. The NCPC also advised the Zoning Commission that the NCPC will participate in Zoning Commission Case No. 79-10, the proposed rezoning of all properties fronting on Connecticut Avenue between Dupont Circle and Florida Avenue, which is within the Dupont Circle Historic District, in support of the rezoning of such property to a zoning classification limiting building height consistent with the Federal interest in the Historic District.

The Commission considered the report of the NCPC at great length at its meeting held on May 8, 1980. The Commission notes that the primary purpose of the creation of the new C-3 District is to fill a gap in the Zoning Regulations created by the difference in density permitted in the existing C-3-A and C-3-B Districts. This proposed text amendment creates a regulatory tool. The NCPC did not object to the creation of the District, only to its mapping in "certain designated historic districts." The present case does not propose to map the district in any specific location. The Zoning Commission believes that the concerns of the NCPC can be and should be appropriately

addressed in the forum of a proposal to map the new district, when and if the Zoning Commission proposes to do so.

The Zoning Commission further notes that one of the major concerns of the NCPC, and of the staff report which the NCPC considered when it acted, was to limit the height to six stories. It is possible that a height of seventy feet could allow for a building of more than six stories. In order to meet this concern of the NCPC, the Commission will limit the height of buildings in the new C-3-B District to seventy feet and six stories. The Commission believes this will, in large measure, meet the objections of the NCPC.

Based on the foregoing reasons, the Commission believes that the proposed amendment is in the best interest of the District of Columbia and is consistent with the intent and purposes of the Zoning Regulations and Zoning Act. The Commission therefore hereby orders adoption of the following amendments to the Zoning Regulations:

- (1) Change all existing references to "C-3-B" in the Zoning Regulations to "C-3-C".
- (2) Redesignate on the Zoning Map all property currently zoned "C-3-B" to "C-3-C".
- (3) Modify existing Sub-section 5103.1 to read as follows:

5103.1 The C-3 District is designed to accommodate important sub-centers supplementary to the Central Business District. All such districts will provide substantial amounts of employment, housing and mixed uses. The District is divided into C-3-A, C-3-B and C-3-C Districts.

5103.11 The C-3-A District permits medium density development, with a density incentive for residential development within a general pattern of mixed use development. C-3-A Districts should be compact in area and located on arterial streets, in uptown centers and at rapid transit stops.

5103.12 The C-3-B District permits medium density development, including office-retail, housing and mixed uses. It is intended for uptown locations, where the largest component of development will be office-retail and other non-residential uses. C-3-B Districts should be compact in area and located in or near the Central Employment Area, on arterial streets, in uptown centers and at rapid transit stops.

5103.13 The C-3-C District permits medium-high density development, including office, retail, housing and mixed use development. C-3-C Districts should be compact in area.

- (4) Modify part of the table in Sub-section 5201.1, regarding height, to read as follows:

	<u>Height in Feet</u>	<u>Height in Stories</u>
C-3-A	65	No Limit
C-3-B	70	6
C-3-C	90	No Limit

- (5) Modify part of the table in Sub-section 5301.1, regarding floor area ratio, to read as follows:

	<u>Apartment House or Other Resi- dential Use</u>	<u>Hotel or other Permitted Use</u>	<u>Maximum Permitted</u>
C-3-A	4.0	2.5	4.0
C-3-B	5.0	4.0	5.0
C-3-C	6.5	6.5	6.5

- (6) Modify part of the table in Sub-section 5302.1 regarding percentage of lot occupancy, to read as follows:

C-3-A	75%
C-3-B, C-3-C	100%

- (7) Modify part of the table in Paragraph 5302.21, regarding residential recreation space, to read as follows:

C-3-A	15%
C-3-B	10%
C-3-C	10%

- (8) Modify parts of Section 5303, regarding near yards, as follows:

- a. In the table in Sub-section 5303.1, add "C-3-C" between "C-3-B" and "C-4".
- b. In paragraph 5303.11, add "C-3-C" between "C-3-B" and "C-4".
- c. In Sub-section 5303.3, add "C-3-C" after "C-3-B".

- (9) Modify paragraph 5304.13, regarding side yards, to add "C-3-C" after "C-3-B" in Sub-paragraph 5304.132,

- (10) Modify parts of Section 5103, regarding uses, as follows:

- a. In sub-paragraph 5103.331, regarding motorcycle sales and repair, sub-paragraph 5103.332, regarding massage establishments, and paragraph 5103.35, regarding mechanical parking garages, change "C-3-B" to "C-3-C".
- b. In paragraph 5103.41, regarding mechanical parking garages, and paragraph 5103.42, regarding motorcycle sales and repairs, and "and C-3-B" after C-3-A".
- c. In paragraph 5103.47, regarding sexually-oriented business establishment, change "C-3-B" to "C-3-C".

- (11) In Sub-section 5401.1 regarding existing uses and structures, and sub-section 7103.1, regarding non-conforming provisions, add "C-3-C" between "C-3-B" and "C-4".

- (12) In the table sub-section 7202.1, for parking requirements, and sub-section 7302.1, for loading requirements, add "C-3-C" after "C-3-B" in all places.

- (13) Modify part of the table in paragraph 7501.41, regarding height in Planned Unit Developments, to read as follows:

Maximum Height

C-3-A, C-3-B	90 feet
C-3-C	130 feet

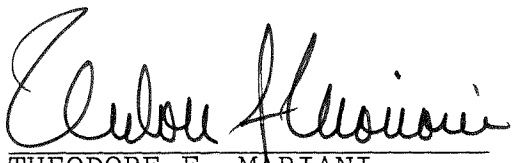
- (14) Modify part of the table in paragraph 7501.43, regarding floor area ratio in Planned Unit Developments, to read as follows:

	<u>Residential</u>	<u>Commercial including hotels and motels</u>	<u>Total</u>
C-3-A	4.5	3.0	4.5
C-3-B	5.5	4.5	5.5
C-3-C	7.0	7.0	7.0

- (15) In paragraph 7601.63, regarding mechanical amusement machines, change "C-3-B" to "C-3-C".
- (16) In paragraph 7613.23, regarding boundary lines crossing a lot, add "C-3-C between "C-3-B" and "C-4".
- (17) In paragraph 2101.14, regarding types of districts, add "C-3-B medium bulk" after "C-3-A" and change "C-3-B" to "C-3-C".

Vote of the Commission taken at the public meeting held on January 10, 1980: 4-1(Commissioners Walter B. Lewis, John G. Parsons, Ruby B. McZier and George M. White, to approve - Commissioner Theodore F. Mariani, opposed).

Vote of the Commission taken at the public meeting held on April 10, 1980: 3-1(Commissioners George M. White, Ruby B. McZier, and Theodore F. Mariani, to adopt as amended and subject to NCPC review - Commissioner John G. Parsons, opposed and Commissioner Walter B. Lewis not present not voting).



THEODORE F. MARIANI
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on May 8, 1980 by a vote of 5-0(Ruby B. McZier, Walter B. Lewis, Theodore F. Mariani, John G. Parsons and George M. White to adopt)

In accordance with Section 3.62 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, the amendments to the Zoning Regulations are effective on 23 MAY 1980.